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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 09/182,933      | 10/30/1998  | GLENN ARTHUR REITMEIER | SAR13070            | 2555             |

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EXAMINER

MEISLAHN, DOUGLAS J

ART UNIT

PAPER NUMBER

2132

DATE MAILED: 05/06/2003

*CH*

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                 |                  |
|------------------------------|---------------------------------|------------------|
| <b>Office Action Summary</b> | Application No.                 | Applicant(s)     |
|                              | 09/182,933                      | REITMEIER ET AL. |
|                              | Examiner<br>Douglas J. Meislahn | Art Unit<br>2132 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 21 February 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-18 and 22-29 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-18 and 22-29 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

|  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to the request for reconsideration filed 21 February 2003.

### ***Response to Arguments***

2. Applicant's arguments filed 21 February 2003 have been fully considered but they are not persuasive.

3. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., segmenting data before compression; the image frames in the claims are compressed, but not necessarily after they have been segmented and rearranged) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

4. Applicant's treatment of Inoue ignores concepts in Inoue that the examiner had cited and shown to be compatible with Oshima.

5. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Inoue clearly shows the advantage (heightened security) of both scrambling and encrypting data.

6. Applicant has attempted to challenge the examiner's taking of Official Notice; however, applicant has not provided adequate information or argument so that on its face it creates a reasonable doubt regarding the circumstances justifying the Official Notice, MPEP 2144.03. Therefore, the presentation of a reference to substantiate the Official Notice is not deemed necessary. The examiner's taking of Official Notice has been maintained.

*60  
SPLS3*

#### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1, 2, 10-13, 15, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oshima et al. (WO98/27553) (US 6266299 is an English-language equivalent) in view of the Microsoft Press *Computer Dictionary* and Inoue (5195134).

Figure 34 of Oshima et al. shows data being MPEG encoded (element 43) and scrambled by a scrambler (element 45) using a key (element 44). (For translation, see English-language equivalent US 6266299 B1, figure 34 and the paragraph spanning columns 36 and 37). MPEG anticipates prediction-based compression, and the key corresponds to applicant's index. Oshima et al. do not say that the scrambling reorders data. The Microsoft Press Computer Dictionary (3<sup>rd</sup> ed.) defines a scrambler as a

"device or program that reorders a signal sequence in order to render it indecipherable."

As such, it would have been obvious to a person of ordinary skill in the art at the time the invention was made for Oshima et al.'s scrambler to reorder the MPEG-compressed data because, definitionally, that is what scramblers do.

Oshima et al. do not encrypt the scrambled data. Encrypting data that has already been scrambled, although perhaps not a ubiquitous practice, is known in the art of data transmission, as evidenced by lines 18-22 of column 3 in Inoue; the encryption has the obvious advantage of providing increased security to the data. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to encrypt the data on disks (element 240) pictured in figure 41 of Oshima et al. as taught by Inoue. This would increase security.

An apparatus to produce this encrypted, scrambled, compressed data stream is inherent. A method to recover the data is anticipated as well.

With respect to claim 2, Inoue has taught encryption of the entire signal. Inoue also talks about subscribers in line 26 of column 3, thereby meeting the limitations of 2.

9. Claim 3, 6, 16, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue as applied to claim 2 above.

Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue render obvious a system that compresses, mixes, and encrypts data. Control data for the mixing is also encrypted. They do not teach sending the control data to a receiver via a different medium. Official notice is taken that it is old and well known to send

control data separately from the actual information. This is especially established in pay television systems; a card will be sent to a client, who puts the card in a machine on the client's television. The data on the card allows the descrambling of broadcast programming. This method provides a level of security by separating the scrambled data from the key to that data. Walker et al. and Inoue are both concerned with data transmission, and therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to send control data by a different medium, such as a mailed card as is known in the art, the recipient in the combined system of Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue. This would increase security.

10. Claims 4, 5, 17, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue as applied to claims 2, 3, 16, 25, and 26 above.

Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue render obvious a system that compresses, mixes, and encrypts data. They do not teach non-continuous temporal transmission. Official notice is taken that transmission of data, particularly encrypted data, in a non-continuous fashion is old and well known. By providing only part of a cryptogram, an attacker (probably) cannot decrypt any of the cryptogram. This is used in the interlock protocol, which, although concerned specifically with public keys, is applicable to symmetric cryptography. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to increase the security of Oshima et al. in view of the Microsoft Press

*Computer Dictionary* and Inoue by transmitting the data discontinuously. Also, if the data is transmitted as packets, it would inherently be transmitted discontinuously.

11. Claims 7, 8, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue as applied to claims 1 and 28 above.

Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue render obvious a system that compresses, mixes, and encrypts data. There is no mention in either reference of the segments being a specific size or distributing the segments over many different distribution channels. Official notice is taken that digital broadcast over computer networks is old and well known as a method for data transmission. Data is generally conveyed in packets that are generally the same size, meeting the limitations of claim 7. The networks use many different transmission paths to deliver data to a single source, meeting claim 29. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the teachings of Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue's joint transmission system to digital broadcast over networks.

12. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue as applied to claim 1 above.

Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue render obvious a system that compresses, mixes, and encrypts data. They do not say that a non-predicted information segment is included in the segment. Official notice is

taken that it is old and well known to include random information, such as an initialization vector, in data that is to be encoded. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a non-predicted information frame within each segment of Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue, thereby providing an initialization vector for the stream.

13. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue as applied to claim 1 above.

Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue render obvious a system that compresses, mixes, and encrypts data. They do not say that the step of compressing produces control information indicative of a utilization level of a decoder buffer. This feature has been interpreted as being access rights for decompression. Official notice is taken that access rights are an old and well-known type of control data that are used to indicate parties that are allowed to access a product. They are especially common in pay-television systems. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made for commonly known access rights to be included in the control data of Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue. The time of access rights generation is substantially inconsequential, but it would have been obvious to produce the rights at the same time as the operation that they control.

14. Claims 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue as applied to claim 15 above.

Oshima et al. in view of the Microsoft Press *Computer Dictionary* and Inoue render obvious a system that compresses, mixes, and encrypts data. They do not specifically teach storing the unencrypted data in random access memory. Official notice is taken that it is old and well known that random access storage allows a processor to directly access data. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use random access memory to store the data used in Oshima et al. because the data is not accessed in the order in which it is meant to be viewed or heard.

### ***Conclusion***

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

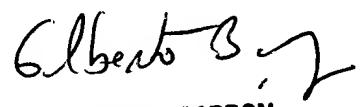
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas J. Meislahn whose telephone number is (703) 305-1338. The examiner can normally be reached on between 9 AM and 6 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barrón can be reached on (703) 305-1830. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Douglas J. Meislahn  
Examiner  
Art Unit 2132

  
DJM  
May 2, 2003

  
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SUPERVISORY PATENT EXAMINER  
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